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July 10, 1997

DOCKET FILE COPY ORIGINAL

Office of the Secretary
FEDERAL COMMUNICATIONS COMMISSION
1919 M Street, N.W.
Washington, D.C. 20554

Dear Mr. Secretary:

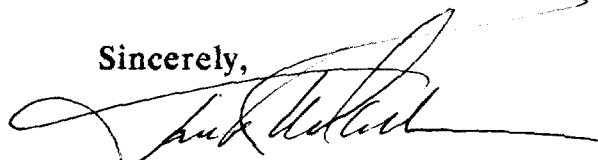
The following is a series of comments on issues raised within MM Docket No. 97-138, "In the Matter of Review of the Commission's Rules regarding the main studio and local public inspection files of broadcast television and radio stations." The comments are filed pursuant to 47CFR 1.415 and 1.419.

I am owner and manager of Wind River Broadcast Center, a Loveland, Colorado firm which provides technical consulting and publishing services to radio broadcasters operating by authority of FCC rules. Wind River publishes The Radio Broadcaster's BIGBOOK Project, a widely used regulatory compliance workbook for use at radio broadcasting stations. I have been professionally involved in the field since 1963.

My comments are based partially on feedback I have received from radio broadcasters who subscribe to our publications and must face the affected rules daily, and partially upon my own view of a sensible public policy approach to the questions I have addressed.

Thank you for the opportunity to comment in this matter.

Sincerely,



James R. McDonald, owner
Wind River Broadcast Center

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the matter of)
) MM Docket No. 97-138
Review of the Commission's Rules)
regarding the main studio and)
local public inspection files)
of broadcast television)
and radio stations)

47CFR 73.1125, 73.3526
and 73.3527.

COMMENTS RELATIVE TO
NOTICE OF PROPOSED RULEMAKING

Filing date: July 10, 1997

I. INTRODUCTION

In response to the Commission's request for comments in the above-captioned matter, the following are offered. The comments are identified by the section and paragraph in which the Commission raises the issue in its NPRM. These comments relate to radio broadcasting only; television is outside my area of interest. Where no comment is thought useful, none is proposed.

II. MAIN STUDIO RULE

1. (Refers to MM 97-138, all of the discussion) In my view, there are two major factors which underlie the issue and which must be taken into account when evaluating this rule.

These are:

A. The station must continue in some meaningful way to be accountable and available to the listeners whom it purports to serve. Although "community of license" is the term of convenience, it tends to depersonalize the station's real public service mission: to serve a group of people whom it had identified by the time it finalized its engineering standards and its programming plans. When it filed its applications, the licensee became his own best judge of the character and location of the audience.

B. The relaxation of multiple ownership rules attracts broadcasters whose businesses are intended to be successful based at least in part on an "economy of scale" which arises from eliminating unnecessary duplication of services and facilities, consistent with serving the listening audience. The rules should not unreasonably hamper this objective.

2. (Refers to MM 97-138, Section II - 9) The argument that the present community contour requirement as a determining factor in the studio location becomes an excessive burden on lower-power stations - and is therefore unfair - is unconvincing. There are many situations in which treatment of

dissimilar stations is unequal without being considered unfair; regulatory and filing fees are among them.

3. (Refers to MM 97-138, Section II - 13) The suggestion of a standard that may be changed based on application and review seems an unnecessary burden on broadcasters, on the Commission and on taxpayers. It should not be considered.

4. (Refers to MM 97-138, Section II- 14, 15) The station should clearly maintain a useful presence within its listening area. It seems illogical that a station could successfully conduct its basic public service and public relations business in an area where it is cannot be heard adequately. My suggestion is that the station's local facility be located within the next lower-grade contour than presently required. This provides greater latitude in site selection but still locates the station in its own listening area.

5. (Refers to MM 97-138, Section II - 14, 15) Thanks to technical advances, studio equipment may no longer be necessary in a local office if programming comes from elsewhere. Further, is there a reason for the local office to house fulltime duty personnel? Perhaps the notion of "studio" could be changed to one of an "agency" at a location where convenient personal, telephone or message contact can be made between the public and station staff or contracted "agents," such that the public's requests for services and review of the public inspection file may be dealt with within 24 to 48 hours.

6. (Refers to all of the discussion) Since the early 1980s, the Commission's regulatory trend has been away from requiring specific methods of compliance, but rather to allow broadcasters to find the most efficient way to achieve compliance with the standards established by the rules. In short, the rules have moved away from control of practices toward control of standards. In that sense, it seems that if the listeners to a station can conveniently approach station management, can conveniently obtain information from the public file, and can conveniently comment on the station's activities, the real objective of this rule has been achieved.

III. LOCAL PUBLIC INSPECTION FILE RULES

A. Location of the public file:

1. Wind River has had contact with numerous broadcast licensees who use our workbooks for management of their public files. In those cases where the file must be kept in locations other than the main studio, licensees have reported such difficulties as vandalism, disappearance of information, and finding the file in disarray from time to time. Additionally, station personnel are fearful that if they do not physically install their quarterly issues/programs and other updates in the file, this requirement may not be handled properly or timely; thus, management of an offsite file is inconvenient and such a file is uniquely vulnerable to mishandling by persons not responsible to the licensee or the Commission.

2. It is clear that the objective of the public inspection file rule is to provide the listeners to a station reasonably convenient access to information about that station's operation with respect to the discharge of the public trust implied by the station license. As previously mentioned, this objective could be met by providing a means of obtaining information in a station's public file within 24 to 48 hours of the request. A properly organized public file lends itself to publication of a simple, one or two-page directory of contents so that a party seeking information could easily locate and request items.

3. If my view of the Commission's regulatory history is correct, the Commission's interest is in the objective, not the procedure. So long as the public's access to the public inspection file is not impeded, unduly delayed or denied, the station can itself determine how access may be gained. In a directory of contents, for example, a station might easily explain to those seeking the information a means of access to the file. The station could use any means to achieve the 24 to 48 hour timeframe for delivery of requested information from the file. Means could include continuing to maintain a separate file at some convenient location in the community of license, providing photo or facsimile copies of documents, posting it on the internet, or leaving it at the studio location for immediate access. Thus, it seems logical that one copy of a station's public inspection file be domiciled at the same location as the station license; this allows the FCC or the public immediate access to the file upon visiting the station premises.

B. Public Inspection File Contents:

1. (Refers to MM 97-138, Section III - B - 24) I agree with the Commission's desire to eliminate the following:

- a. "The Public and Broadcasting," 1974.
- b. References which are now obsolete.
- c. References which are incorrect.

2. (Refers to MM 97-138, Section III - B - 25) Under present rules, the transferee of a license is somewhat vulnerable to the recordkeeping of the transferor, although it seems sensible that an incomplete public file or other records would be discovered during the performance of due diligence, with the transfer closing being at least to some extent dependent upon the transferor's locating and providing any available records. If not available from the transferor, most FCC filings are readily available from the Commission's copy contractor without placing an undue burden on the transferee and may provide an essential "paper trail" through modes of operation or other official changes. Records such as letters and issues/programs lists are, of course, not replaceable and a new owner cannot be expected to reconstruct these records and should not be placed at risk for lack of them. Indeed, the transferor may already have suffered FCC sanctions for lack of these same records. Transferees should not be placed in a position of having to reconstruct them.

3. (Refers to MM 97-138, Section III - B - 26) "E-mail" correspondence is logically related to other letters from the public and could be retained as described in this section.

C. Retention Periods:

1. (Refers to MM 97-138, Section III - C - 27 - 28) I agree that the retention period, if presently tied to the license period, should continue to be tied to the license period, and thus the seven-year requirement would logically become eight years for radio station licensees. Further, retaining these records to the actual grant date of a renewal seems logical and not burdensome to the licensee.

2. (Refers to MM 97-138, Section III - C - 27 - 28) With respect to the quarterly issues/programs list, the syntax used by the Commission in writing the modification described just previously must be clearer than that presently used in the Rules. Several licensees have contacted me during this renewal cycle to ask if they could remove all issues/programs lists from the public inspection file at renewal time, thus virtually emptying the file. After study of the rule and informal conversations with Commission staff, I find that the present rule tends to be vague to the extent that it does not adequately describe what I believe to be a license-period "window" which moves along with the passage of time, thus providing that this portion of the public inspection file contain items which are as old as the retention period is long.

3. (Refers to MM 97-138, Section III - C - 29) For visiting contract or consulting engineers, members of the public as well as for FCC inspections, a complete and orderly public inspection file remains an excellent source of information about the station. It provides a "paper trail" through which responsible parties can determine operational details about the station and its history for the purpose of economically providing technical or legal assistance. Although this is not the purpose of the file, it is certainly a valid use of the information to the licensee's benefit. Wise use of this information can aid contracted professional and technical personnel in serving the station cost-effectively and quickly. Relaxation of the retention requirement for materials described in this paragraph of the NPRM may result in no significant change in licensee behavior, although any increase in the requirement may result in outcry, whether well founded or not.

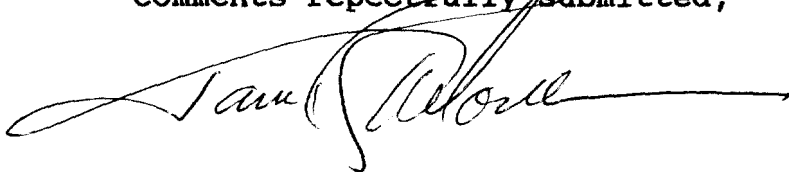
4. (Refers to MM 97-138, Section III - C - 30) It seems like "tinkering" to reduce the retention requirement for employment and ownership reports. Both must be filed, and the public inspection file is as good a repository as any for the station copies. Indeed, an unexpected burden of more frequent maintenance of the file may result from reducing the retention period for these documents. I believe that, in general, it is easier for a licensee to keep documents for a longer period of time than to "housekeep" the file more frequently.

I believe that retention for the term of license, as previously, is appropriate. Similarly, I see no reason to change the retention period for letters from the public.

D. An Electronic Public File Option:

All means of electronic distribution of materials in the public inspection file, including use of the internet, a local computer terminal for public access, and fax distribution should be encouraged. To this end, rules should be carefully phrased so as not to foreclose these options to the broadcaster so long as the objective of public involvement is met. Further and perhaps more importantly, phraseology of these rules should encourage progress in this area.

Comments respectfully submitted,

A handwritten signature in black ink, appearing to read "James R. McDonald", with a long horizontal flourish extending to the right.

James R. McDonald

Wind River Broadcast Center

July 9, 1997